

REMARKS

This Amendment accompanies a RCE. Claims 1-6, 8-34, 36-54, 56-58 and 102-105 are currently pending. Applicants note with appreciation that the Examiner has acknowledged that claims 8-16, 34, 36, 45, 49-54, 56-58 and 102-105 are directed to allowable subject matter.

By this amendment, claims 1-6, 8-34, 36-54, 56-58 and 102-105 are canceled without prejudice or disclaimer, and new claims 106-164 are added. Following entry of this amendment, claims 106-164 will be pending. No new matter is added. Support for the new claims is found throughout the specification and originally filed claims. Entry of the new claims is respectfully requested.

The following cancelled claims are presented as the following new claims:

New claim	Cancelled claim
106	8
107	9
108	10
109	11
110	12
113	15
114	16
116	17
117	2
118	3
119	4
120	5
121	6
122	18
123	19
124	20
125	21
126	22

New claim	Cancelled claim
127	23
128	24
129	25
130	26
131	27
132	28
133	29
134	30
135	31
136	32
137	33
138	34
139	36
140	37
141	38
144	42
145	43
146	44

New claim	Cancelled claim
147	45
150	48
153	50
154	51
155	52
156	53
157	54
158	56
159	57
160	58
161	102
162	103
163	104

Applicants note that new claims 106, 112, 138, 139, 151, and 161-163 correspond to allowable claims 8, 14, 34, 36, 49, and 161-163 rewritten as independent claims (so as to eliminate dependence from rejected base claims).

In addition, claim 111 is similar to cancelled claim 13, except that the phrases “selected sequence” and “fusion gene” have been changed to “desired product” and “fusion polynucleotide”, respectively to improve consistency of claim language and claim clarity. Claim 112 is similar to cancelled claim 14 except that the phrase “fusion gene” has been changed to “fusion polynucleotide” to improve consistency of claim language and claim clarity.

Claim 142 is similar to cancelled claim 39 but now depends from new claim 116 (former claim 17) rather than cancelled claim 1. Claims 143, 148, 149, and 164 are similar to cancelled claims 41, 46, and 47, respectively, and have been rewritten to recite the language of cancelled claim 40. Claim 164 is similar to cancelled claim 105 and has been rewritten to recite the language of cancelled claim 1.

With respect to all amended and cancelled claims, Applicants have not dedicated or abandoned any unclaimed subject matter and moreover have not acquiesced to any objection and/or rejection made by the Office. Applicants expressly reserve the right to pursue prosecution of any subject matter not presently claimed in one or more future or pending continuation and/or divisional applications.

IDSs

Applicants acknowledge receipt of the initialed Form 1449s.

Submitted herewith is a Supplemental Information Disclosure Statement and Form 1449 containing foreign language reference EP 0711835 A and an English language description of said reference. Applicants respectfully request that the Examiner review the references and return an initialed Form 1449. Applicants note that US Patent No. 6,114,146 is an English-language counterpart of EP 0711835 A, and has already been reviewed by the Examiner (see reference no. 45 in the IDS submitted 18 October 2004).

Rejection Under 35 U.S.C. § 112, Second Paragraph

Claims 17-33 and 37-38 are rejected under 35 U.S.C. § 112, second paragraph as allegedly indefinite. Specifically, the Examiner states that “the GFP” in claim 17 lacks sufficient antecedent basis. Applicants respectfully traverse the rejection.

As a preliminary matter, Applicants note that claims 17-33 and 37-38 are free of the art.

Claims 17-33 and 37-38 have been cancelled, and new claim 115 (and claims depending therefrom) do not recite the offending phrase. Withdrawal of this rejection is respectfully requested.

Rejection Under 35 U.S.C. § 103(a)

Claims 1-6, 39-44 and 46 are rejected under 35 U.S.C. § 103(a) as allegedly obvious over Tan et al. (US 6,235,967) as applied to or further in view of Chishima, et al. (Cancer Res. 1997; 57: 2042-47). Applicants respectfully traverse. Applicants respectfully disagree that claims 1-6, 39-44 and 46 are obvious. However, to expedite prosecution, the claims have been cancelled. Accordingly, prompt withdrawal of this rejection is respectfully requested.

Rejection Under 35 U.S.C. § 103(a)

Claims 47-48 are rejected under 35 U.S.C. § 103(a) as allegedly obvious over Tan, et al. (US 6,235,967) or Chishima, et al. (Cancer Res. 1997; 57:2042-47), and further in view of Moir and Mao (Bioprocess Technol. 1990; 9:67-94) or Lubiniecki et al. (Biologicals. 1994, 22(2): 161-9). Applicants respectfully traverse. Applicants respectfully disagree that claims 47-48 are obvious. However, to expedite prosecution, claims 47-48 have been cancelled. Accordingly, prompt withdrawal of this rejection is respectfully requested.

SUMMARY

Applicants believe that this application is now in condition for allowance and respectfully requests that the outstanding rejections be withdrawn and this case passed to issue. The Examiner is invited to contact the undersigned at (650) 467-6222 in order to expedite the resolution of any remaining issues.

In the unlikely event that this document is separated from the transmittal letter or if fees are required, applicants petition the Commissioner to authorize charging our **Deposit Account 07-0630** for any fees required or credits due and any extensions of time necessary to maintain the pendency of this application.

Respectfully submitted,

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